

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Chu Analyst: Deborah Barrett Bill Number: AB 780
Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: 02-18-05
Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

SUBJECT: Franchise Tax Board Meetings/Distribution Of Certain Documents

SUMMARY

This bill would align the Franchise Tax Board (FTB) procedural requirements with those applicable to the Board of Equalization (BOE) open meetings

PURPOSE OF THE BILL

The purpose of this bill is to assist the public with the submission of documents for meetings of the three-member Franchise Tax Board.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2006, and apply to FTB meetings after that date.

POSITION

Support

On December 1, 2004, the Franchise Tax Board voted 2-0, with the representative from Department of Finance abstaining, to sponsor a proposal to revise current law consistent with the amendments made by this bill as introduced.

ANALYSIS

FEDERAL/STATE LAW

The Bagley-Keene Open Meeting Act requires all meetings of a state body to be open and public and grants the right to attend such meetings to all persons, with certain exceptions.

A state body conducting a meeting is required to:

- Provide an agenda and specified notice of its public meetings at least 10 days in advance of the meeting,
- Make available to the public, either at the meeting or after the meeting, any public records relating to any agenda item that will be considered at the meeting.

Board Position:

☐ S ☐ NA ☐ NP
☐ SA ☐ O ☐ NAR
☐ N ☐ OUA ☒ PENDING

Department Director

Date

Gerald H. Goldberg

3/16/05

Public records distributed to members of a state body prior to or during a public meeting must be made available for public inspection *at* the meeting. If the writing is prepared by other than the governmental body or a member of the governmental body, it must be made available for public inspection upon request without delay *after* the meeting.

Under current law, documents pertaining to an agenda item distributed to the three-member FTB by FTB staff or individual FTB members prior to or during an FTB meeting must be distributed in three ways to the public before the three-member FTB may take any final action on that item. The documents must be: (1) distributed to all persons requesting notice of meetings; (2) made available on the Internet; and (3) made available for public inspection at the meeting. These documents must be distributed in the above manner regardless of who prepared the documents.

Following enactment of SB 445, similar amendments were made to the open meeting laws governing Board of Equalization meetings. The BOE provisions are limited to those documents prepared by BOE staff or members of the BOE.

THIS BILL

This bill would remove the distribution requirement for documents prepared and submitted by the public during meetings of the Franchise Tax Board.. Removing this requirement would allow the three-member Franchise Tax Board to make decisions on agenda items presented at the meetings by the general public without delaying a final action on the agenda item due to the distribution requirement.

This bill would make FTB procedures identical to BOE procedures for conducting public meetings.

IMPLEMENTATION CONSIDERATIONS

Implementation of this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 445 (Burton, Stat. 2001, Ch. 670) requires FTB to distribute certain documents in a specified manner before a final action can be taken at a meeting of the three-member FTB. SB 445 was enacted to prevent situations where documents are presented or drafted during a meeting of the three-member FTB, read orally to the public, and voted on by the three-member FTB before the public has an opportunity to review the documents.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue or FTB's administration of state income tax.

ARGUMENTS/POLICY CONCERNS

Limiting the distribution requirement to documents prepared by FTB staff or individual FTB members would allow the public to present relevant documents during a meeting without delaying a final action on an agenda item.

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